

STATE OF NEW MEXICO  
COUNTY OF SOCORRO  
IN THE DISTRICT COURT

7TH JUDICIAL DISTRICT COURT  
SOCORRO COUNTY NM  
FILED IN MY OFFICE  
9/19/2018 4:10 PM  
DISTRICT COURT CLERK  
Stephanie Vega

DAVID GAYTAN  
Plaintiff,

Case No.:  
D-725-CV-2018-00159  
Murphy, Mercedes C.

Vs.

STATE OF NEW MEXICO, STATE POLICE OFFICER A.J. ROMERO IN HIS OFFICIAL  
AND PERSONAL CAPACITIES.  
Defendants,

**COMPLAINT FOR ASSAULT AND BATTERY, FALSE IMPRISONMENT, AND  
USING THE COLOR OF LAW TO VIOLATE PLAINTIFF'S RIGHTS CONTRARY TO  
42 USC § 1983, VIOLATION OF PLAINTIFF'S RIGHT TO BE SECURE IN HIS  
PROPERTY AND PERSON AS GUARANTEED BY THE CONSTITUTION OF THE  
UNITED STATES OF AMERICA AND THE CONSTITUTION OF THE STATE OF  
NEW MEXICO**

I. FACTS:

- 1) Plaintiff David Gaytan is a resident of Socorro County, New Mexico.
- 2) Defendant A.J. Romero, was employed by the State of New Mexico as a State Police Officer and was on duty in Socorro County, New Mexico on October 12, 2017.
- 3) Plaintiff David Gaytan owns a lot off of Spring Street in Socorro, New Mexico.
- 4) On October 12, 2017, David Gaytan was operating a food cart at his lot off Spring Street, as a licensed food vendor.
- 5) In the past State Police officers would stop motorists and pull them over into Mr. Gaytan's lot, where he operated his food cart.
- 6) Mr. Gaytan went through the appropriate administrative channels and requested that State Police no longer pull people over into his lot as it affected his business.
- 7) On October 12, 2017, Officer A.J. Romero, stopped a motorist and pulled said motorist over into Mr. Gaytan's lot.

- 8) After Officer A.J. Romero had finished citing the motorist, Mr. Gaytan went out to speak to the officer and asked him to leave his private property and not to pull people over into his lot again as it was bad for business.
- 9) A.J. Romero became enraged, forcefully handcuffed Mr. Gaytan, placed Mr. Gaytan into his police car and booked Mr. Gaytan into custody.
- 10) A.J. Romero never formally charged Mr. Gaytan with any violation of the law.
- 11) Mr. Gaytan was eventually released from custody.
- 12) Due to the force Officer A.J. Romero used when he handcuffed Mr. Gaytan, Plaintiff suffered serious permanent personal injury to his wrist area and has been diagnosed with post traumatic stress syndrome from the incident.

**COUNTS I ASSAULT, II BATTERY AND III FALSE IMPRISONMENT**

- 13) Plaintiff re-alleges everything set forth in the preceeding paragraphs as if fully set forth herein.
- 14) A.J. Romero menaced Plaintiff Gaytan with this body language and verbal language causing Mr. Gaytan to believe he was about to receive an immediate unwanted touching.
- 15) Plaintiff Gaytan did receive an immediate unwanted touching when Defendant A.J. Romero forcefully grabbed and handcuffed Plaintiff.
- 16) Plaintiff Gaytan suffered false imprisonment when Defendant A.J. Romero handcuffed Mr. Gaytan, placed him in his patrol car and booked Mr. Gaytan into the jail.
- 17) As a result of the conduct alleged in the preceding paragraphs Plaintiff suffered serious and permanent personal injury.

WHEREFORE, Plaintiff's ask for asks for all damages allowed by law for attorney's fees and costs, for pre and post judgment interest and for actual, compensatory, incidental and consequential damages, and for any other relief the Court deems just and proper.

**COUNTS IV USING COLOR OF LAW TO VIOLATE A PLAINTIFF'S RIGHTS, V VIOLATING PLAINTIFF'S RIGHTS AS SECURED BY THE UNITED STATES CONSTITUTION AND VI VIOLATING PLAINTIFF'S RIGHTS AS SECURED BY THE CONSTITUTION OF THE STATE OF NEW MEXICO.**

- 18) Plaintiff re-alleges everything set forth in the preceeding paragraphs as if fully set forth herein.
- 19) Defendant used the his position as a State Police Officer to violate Plaintiff's right to be secure in his private property, namely the lot Plaintiff owns off Spring Street, when he illegally conducted a traffic stop on private property without the owner's permission.
- 20) Defendant used his position as a State Police Officer to violate Plaintiff's right to be secure in his property and person and to be able to move freely in the community, when Officer A.J. Romero falsely and illegally arrested Defendant Gaytan and booked him into jail without charges.
- 21) The aforementioned rights are secured by the Constitutions of the United States and the State of New Mexico.

WHEREFORE, Plaintiff's ask for asks for all damages allowed by law for attorney's fees and costs, for pre and post judgment interest and for actual, compensatory, incidental and consequential damages, and for any other relief the Court deems just and proper.

Respectfully,

/s/ Amavalise F. Jaramillo

Amavalise F. Jaramillo, Esq.

Attorney for Defendant

P.O. Box 28

Tome, NM 87060

Ph: 505-304-0405

Fax: 505-916-0377

VERIFICATION

STATE OF NEW MEXICO       )  
  ) ss.  
COUNTY VALENCIA        )

Amavalise F. Jaramillo, Esq., an attorney licensed to practice law in the State of New Mexico  
being first duly sworn upon oath, deposes and states:

That I have read, know, and understand the contents of the foregoing pleading, and the  
statements therein are true and correct to the best of my knowledge and belief.

  
Amavalise F. Jaramillo

<b>SUMMONS</b>	
<b>SEVENTH JUDICIAL DISTRICT COURT</b> Socorro County, New Mexico <b>Court Address:</b> 200 Church St. Socorro, NM 87801 <b>Court Telephone:</b> (575) 835-0050	Case Number: D0725-CV-2018-00159  Judge: Hon. Mercedes Murphy
Plaintiff(s)/Petitioner(s):  David Gaytan v.  State of New Mexico, State Police Officer A.J. Romero, in his individual and professional capacities.	Defendant/Respondent Name: State of New Mexico  Address: c/o New Mexico Attorney General 111 Lomas NW, Suite 300 Albuquerque, NM 87102

**TO THE ABOVE NAMED DEFENDANT(S)/RESPONDENT(S):** Take notice that:

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA). The Court's address is listed above.
3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
6. If you need an interpreter, you must ask for one in writing.
7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at [www.nmbar.org](http://www.nmbar.org); 1-800-876-6657; or 1-505-797-6066.

Dated at Los Lunas, New Mexico, this 21 day of September, 2018.

CLERK OF COURT

By: Stephanie Vega  
Deputy



/s/ Amavalise F. Jaramillo  
Signature of Plaintiff/Petitioner or Attorney  
Name: Amavalise F. Jaramillo  
Address: P.O. Box 28, Tome, NM 87060  
Telephone: 505-304-0405  
Fax: 505-916-0377  
Email Address: Amavalise@gmail.com

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO RULE

OF CIVIL PROCEDURE FOR DISTRICT COURTS.

**RETURN**

STATE OF NEW MEXICO )ss  
COUNTY OF \_\_\_\_\_ )

I, being duly sworn, on oath, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this summons in \_\_\_\_\_ county on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by delivering a copy of this summons, with a copy of complaint attached, in the following manner: **(check one box and fill in appropriate blanks)**

☐ to the defendant \_\_\_\_\_ (*used when defendant accepts a copy of summons and complaint or refuses to accept the summons and complaint*)

☐ to the defendant by [mail] [courier service] as provided by Rule 1-004 NMRA (*used when service is by mail or commercial courier service*).

After attempting to serve the summons and complaint on the defendant by personal service or by mail or commercial courier service, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

☐ to \_\_\_\_\_, a person over fifteen (15) years of age and residing at the usual place of abode of defendant \_\_\_\_\_, (*used when the defendant is not presently at place of abode*) and by mailing by first class mail to the defendant at \_\_\_\_\_ (*insert defendant's last known mailing address*) a copy of the summons and complaint.

☐ to \_\_\_\_\_, the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to the defendant at \_\_\_\_\_ (*insert defendant's business address*) and by mailing the summons and complaint by first class mail to the defendant at \_\_\_\_\_ (*insert defendant's last known mailing address*).

☐ to \_\_\_\_\_, an agent authorized to receive service of process for defendant \_\_\_\_\_.

☐ to \_\_\_\_\_, [parent] [guardian] [custodian] [conservator] [guardian ad litem] of defendant \_\_\_\_\_ (*used when defendant is a minor or an incompetent person*).

☐ to \_\_\_\_\_ (*name of person*), \_\_\_\_\_, (*title of person authorized to receive service. Use this alternative when the defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision*).

Fees: \_\_\_\_\_

\_\_\_\_\_  
Signature of person making service

\_\_\_\_\_  
Title (*if any*)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_

Judge, notary or other officer authorized to administer oaths

Official Title



<b>SUMMONS</b>	
<b>SEVENTH JUDICIAL DISTRICT COURT</b> Socorro County, New Mexico <b>Court Address:</b> 200 Church St. Socorro, NM 87801 <b>Court Telephone:</b> (575) 835-0050	Case Number: D0725-CV-2018-00159  Judge: Hon. Mercedes Murphy
Plaintiff(s)/Petitioner(s):  David Gaytan v.  State of New Mexico, State Police Officer A.J. Romero, in his individual and professional capacities.	Defendant/Respondent Name: Officer A.J. Romero  Address:  N. Interstate 25 Socorro, NM 87801

**TO THE ABOVE NAMED DEFENDANT(S)/RESPONDENT(S):** Take notice that:

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA). The Court=s address is listed above.
3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.
5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
6. If you need an interpreter, you must ask for one in writing.
7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at [www.nmbar.org](http://www.nmbar.org); 1-800-876-6657; or 1-505-797-6066.

Dated at Los Lunas, New Mexico, this 21 day of September, 2018.

CLERK OF COURT

By /s/ Stephanie Vega  
Deputy



/s/ Amavalise F. Jaramillo  
Signature of Plaintiff/Petitioner or Attorney  
Name: Amavalise F. Jaramillo  
Address: P.O. Box 28, Tome, NM 87060  
Telephone: 505-304-0405  
Fax: 505-916-0377  
Email Address: Amavalise@gmail.com

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW MEXICO RULE

OF CIVIL PROCEDURE FOR DISTRICT COURTS.

**RETURN**

STATE OF NEW MEXICO )ss  
COUNTY OF \_\_\_\_\_ )

I, being duly sworn, on oath, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this summons in \_\_\_\_\_ county on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by delivering a copy of this summons, with a copy of complaint attached, in the following manner: **(check one box and fill in appropriate blanks)**

☐ to the defendant \_\_\_\_\_ (*used when defendant accepts a copy of summons and complaint or refuses to accept the summons and complaint*)

☐ to the defendant by [mail] [courier service] as provided by Rule 1-004 NMRA (*used when service is by mail or commercial courier service*).

After attempting to serve the summons and complaint on the defendant by personal service or by mail or commercial courier service, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

☐ to \_\_\_\_\_, a person over fifteen (15) years of age and residing at the usual place of abode of defendant \_\_\_\_\_, (*used when the defendant is not presently at place of abode*) and by mailing by first class mail to the defendant at \_\_\_\_\_ (*insert defendant's last known mailing address*) a copy of the summons and complaint.

☐ to \_\_\_\_\_, the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to the defendant at \_\_\_\_\_ (*insert defendant's business address*) and by mailing the summons and complaint by first class mail to the defendant at \_\_\_\_\_ (*insert defendant's last known mailing address*).

☐ to \_\_\_\_\_, an agent authorized to receive service of process for defendant \_\_\_\_\_.

☐ to \_\_\_\_\_, [parent] [guardian] [custodian] [conservator] [guardian ad litem] of defendant \_\_\_\_\_ (*used when defendant is a minor or an incompetent person*).

☐ to \_\_\_\_\_ (*name of person*), \_\_\_\_\_, (*title of person authorized to receive service. Use this alternative when the defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision*).

Fees: \_\_\_\_\_

\_\_\_\_\_  
Signature of person making service

\_\_\_\_\_  
Title (*if any*)

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_

Judge, notary or other officer authorized to administer oaths

Official Title

FILED  
7th JUDICIAL DISTRICT COURT  
Socorro County  
5/10/2019 3:35 PM  
CLERK OF THE COURT  
Rachel Gonzales

OF CIVIL PROCEDURE FOR DISTRICT COURTS.  
RETURN

STATE OF NEW MEXICO )ss  
COUNTY OF Valencia

D-725-CV-2018-00159

I, being duly sworn, on oath, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this summons in Valencia county on the 28th day of Nov, 2018 by delivering a copy of this summons, with a copy of complaint attached, in the following manner: (check one box and fill in appropriate blanks)

☐ to the defendant \_\_\_\_\_ (used when defendant accepts a copy of summons and complaint or refuses to accept the summons and complaint)

☐ to the defendant by [mail] [courier service] as provided by Rule 1-004 NMRA (used when service is by mail or commercial courier service).

After attempting to serve the summons and complaint on the defendant by personal service or by mail or commercial courier service, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

☐ to \_\_\_\_\_, a person over fifteen (15) years of age and residing at the usual place of abode of defendant \_\_\_\_\_, (used when the defendant is not presently at place of abode) and by mailing by first class mail to the defendant at \_\_\_\_\_ (insert defendant's last known mailing address) a copy of the summons and complaint.

☒ to State of NM, the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to the defendant at Co NM Attorney General (insert defendant's business address) and by mailing the summons and complaint by first class mail to the defendant at 111 Lomas NW Suite 300 Albuquerque, NM 87102 (insert defendant's last known mailing address).

☐ to \_\_\_\_\_, an agent authorized to receive service of process for defendant \_\_\_\_\_.

☐ to \_\_\_\_\_, [parent] [guardian] [custodian] [conservator] [guardian ad litem] of defendant \_\_\_\_\_ (used when defendant is a minor or an incompetent person).

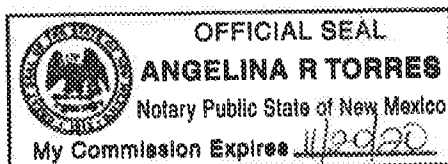
☐ to \_\_\_\_\_ (name of person), \_\_\_\_\_, (title of person authorized to receive service. Use this alternative when the defendant is a corporation or an association subject to a suit under a common name, a land grant board of trustees, the State of New Mexico or any political subdivision).

Signature of person making service

Fees: \$35.00

Title (if any)

Subscribed and sworn to before me this 28 day of Nov, 2018



Judge, notary or other officer authorized to administer oaths

Official Title